

NRESTRAINT, TERMINATED,

**U.S. District Court  
District of Oregon (Portland (3))  
CRIMINAL DOCKET FOR CASE #: 3:21-cr-00087-HZ-1**

Case title: USA v. Howard

Magistrate judge case number: 3:21-mj-00061

Date Filed: 03/16/2021

Date Terminated: 03/22/2022

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Assigned to: Judge Marco A.  
Hernandez

**Defendant (1)**

**Darby Marshall Howard**  
USM #34360-509  
*TERMINATED: 03/22/2022*

represented by **C. Renee Manes**  
Federal Public Defender  
101 SW Main Street  
Suite 1700  
Portland, OR 97204  
503-326-2123  
Fax: 503-326-5524  
Email: [renee\\_manes@fd.org](mailto:renee_manes@fd.org)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**  
*Designation: Public Defender or Community  
Defender Appointment*

**Elizabeth Gillingham Daily**  
Office of the Federal Public Defender  
101 SW Main Street  
Suite 1700  
Portland, OR 97204  
503-326-2123  
Fax: 503-326-5524  
Email: [liz\\_daily@fd.org](mailto:liz_daily@fd.org)  
*TERMINATED: 03/15/2021*  
*Designation: Public Defender or Community  
Defender Appointment*

**Pending Counts**

18:1361 – Destruction of  
Government Property  
(2)

**Disposition**

IMPRISONMENT: TIME SERVED;  
SUPERVISED RELEASE: Three (3) years;  
SPECIAL ASSESSMENT: \$100.00.

**Highest Offense Level (Opening)**

Felony

**Terminated Counts**

18:1361 – Destruction of  
Government Property  
(1)

**Disposition**

DISMISSED

**Highest Offense Level  
(Terminated)**

Felony

**Complaints**

18:1361 Destruction of  
Government Property

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**Disposition****Plaintiff**

USA

represented by **Gregory R. Nyhus**  
United States Attorney's Office  
1000 SW Third Avenue  
Suite 600  
Portland, OR 97204  
(503) 727-1015  
Fax: (503) 727-1117  
Email: [greg.r.nyhus@usdoj.gov](mailto:greg.r.nyhus@usdoj.gov)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**  
*Designation: Retained*

Email All Attorneys

Date Filed	#	Page	Docket Text
03/12/2021	<u>1</u>		Complaint signed by Magistrate Judge Jolie A. Russo as to Darby Marshall Howard (1) (Attachments: # <u>1</u> Affidavit in Support of Criminal Complaint) (sss) [3:21-mj-00061] (Entered: 03/12/2021)
03/12/2021	<u>2</u>		Defendant Information Relative to a Criminal Case Sheet as to Defendant Darby Marshall Howard. <b>(In accordance with Fed. R. Crim. P. 49.1 this form document containing personal data identifiers is filed under seal).</b> (sss) [3:21-mj-00061] (Entered: 03/12/2021)
03/12/2021	4		<b>Minutes of Proceedings:</b> First Appearance before Magistrate Judge Jolie A. Russo as to Defendant Darby Marshall Howard held on 3/12/2021. Proceedings conducted via video-conferencing. Defendant verbally consents to appearance by video-conference. Order appointing counsel: Elizabeth Daily. Pursuant to the Due Process Protections Act, the Court confirms the obligation of the

		<p>United States to produce all exculpatory evidence to the defendant pursuant to <i>Brady v. Maryland</i>, 373 U.S. 83 (1963) and its progeny, and orders it to do so. Failing to do so in a timely manner may result in consequences, including, but not limited to, exclusion of evidence, adverse jury instructions, dismissal of charges, contempt proceedings, or sanctions by the Court. Defendant advised of rights. Defendants Location–Custody status is: Detained as Flight Risk. Preliminary Examination/Review of Detention Hearing set for 3/15/2021 at 1:30PM in Portland by videoconference before the duty magistrate. Counsel Present for Plaintiff: Gregory Nyhus. Counsel Present for Defendant: Elizabeth Daily. Restraint Order: NR. (Court Reporter: Ryan White) (gm) [3:21–mj–00061] (Entered: 03/12/2021)</p>
03/12/2021	<u>5</u>	<p><b>Order of Detention</b> as to Defendant Darby Marshall Howard. Signed on 3/12/21 by Magistrate Judge Jolie A. Russo. (gm) [3:21–mj–00061] (Entered: 03/12/2021)</p>
03/15/2021	6	<p><b>Minutes of Proceedings:</b> Preliminary Examination held before Magistrate Judge Stacie F. Beckerman as to Darby Marshall Howard on 3/15/2021. Defendant waives right to appear in person and consents to appear by video from the Marshals Service lockup. <b>ORDER</b> appointing counsel: C. Renee Manes for Darby Marshall Howard. Defendant advised of rights. Government witness sworn and examined: Special Agent Micah Coring. Government's Exhibit 1 (certified copy of complaint and affidavit) accepted by the Court. The Court grants the Government's oral motion to take judicial notice of Exhibit 1, the complaint and affidavit as filed in this case (ECF No. <u>1</u>). <b>ORDER:</b> The Court takes the issue of probable cause under advisement and will issue a short written opinion. <b>ORDER:</b> Defendant detained pending continued detention hearing on <b>Wednesday, 3/17/2021, at 1:30 PM</b> in Portland by videoconference before the duty magistrate judge. Counsel Present for the Government: Gregory R. Nyhus (by video). Counsel Present for Defendant: C. Renee Manes (by video). (Court Reporter Bonita Shumway) (gw) [3:21–mj–00061] (Entered: 03/15/2021)</p>
03/16/2021	<u>7</u>	<p>Indictment (Redacted) as to Darby Marshall Howard (1) Counts 1–2: Destruction of Government Property. <i>(Count 2 Added by Interlineation) (sss) Modified to include Count 2 on 3/17/2021 (sss). (Main Document replaced – Interlineated Indictment per Minutes of Proceedings # 12 on 3/18/2021 ) (sss) (Entered: 03/17/2021)</i></p>
03/16/2021	<u>8</u>	<p>Indictment <b>Unredacted Version Filed Under Seal</b> as to Defendant Darby Marshall Howard. (sss) (Interlineated Indictment replaced Main Document 8 per Minutes of Proceedings # 12) (sss). (Entered: 03/17/2021)</p>
03/16/2021	<u>9</u>	<p>Defendant Information Relative to a Criminal Case Sheet as to Defendant Darby Marshall Howard. <b>(In accordance with Fed. R. Crim. P. 49.1 this form document containing personal data identifiers is filed under seal).</b> (sss) (Entered: 03/17/2021)</p>
03/16/2021	<u>10</u>	<p>Notice of Case Assignment to Judge Marco A. Hernandez. (sss) (Entered: 03/17/2021)</p>
03/17/2021	<u>11</u>	<p>Amended Defendant Information Relative to a Criminal Case Sheet as to Defendant Darby Marshall Howard. <b>(In accordance with Fed. R. Crim. P. 49.1 this form document containing personal data identifiers is filed under seal).</b></p>

		(sss) (Entered: 03/17/2021)
03/17/2021	12	<b>Minutes of Proceedings:</b> Initial Appearance, Arraignment, and Detention Hearing held before Magistrate Judge Stacie F. Beckerman as to Defendant Darby Marshall Howard (USM #34360–509) on 3/17/2021. Defendant waives right to appear in person and consents to appear by video from the Marshals Service lockup. Arraignment held for Defendant Darby Marshall Howard on Counts 1 and 2. The Government notes that the indictment contains a typographical error, such that Count 2 inadvertently appears as a second "Count 1." The Government asks the Court to correct the second "Count 1" to Count 2. Defense counsel has no objection. The indictment will be corrected by interlineation. Defendant advised of rights, waived reading of the Indictment, and proceeds as named. Not guilty pleas entered. Order that Discovery is due in 14 days. Detention Hearing held for Darby Marshall Howard. Defendant's Location–Custody status is: to be released on conditions. 3–day Jury Trial is set for 5/18/2021 at 09:00 AM in Portland Courtroom 15A before Judge Marco A. Hernandez. Counsel Present for the Government: Seth D. Uram (by telephone) for Gregory R. Nyhus. Counsel Present for Defendant: C. Renee Manes (by video). (Court Reporter Jill Jessup) (gw) (Entered: 03/17/2021)
03/17/2021	<u>13</u>	<b>Order Setting Conditions of Release</b> as to Defendant Darby Marshall Howard ( <i>Defendant to remain in a custody location until the Notice of Compliance with Pre–Release Conditions and Order of Release is filed</i> ). Signed on 3/17/2021 by Magistrate Judge Stacie F. Beckerman. (kcmc). (Entered: 03/17/2021)
03/19/2021	<u>14</u>	Arrest Warrant Returned Executed on 3/11/2021 as to Darby Marshall Howard. (kgc) (Entered: 03/23/2021)
03/19/2021	17	Notice by Pretrial of Compliance with Pre–Release Conditions by Darby Marshall Howard as set forth in <u>13</u> Order Setting Conditions of Release,. (nori). (Entered: 03/31/2021)
03/29/2021	15	<b>Scheduling Order:</b> At the request of Defense Counsel, a Status Conference is SET as to Darby Marshall Howard (USM #34360–509), for Wednesday, 3/31/2021 at 1:30PM in Portland by videoconference before Magistrate Judge Youlee Yim You. Ordered by Magistrate Judge Youlee Yim You. (pvh) (Entered: 03/29/2021)
03/31/2021	16	<b>Minutes of Proceedings:</b> Status Conference held on 3/31/2021 before Magistrate Judge Youlee Yim You as to Darby Marshall Howard. Defendant waives an in–person appearance and consents to appear by telephone. For reasons stated on the record, Defendant's release status to remain unchanged. Counsel Present for Plaintiff: Greg Nyhus. Counsel Present for Defendant: C. Renee Manes. (Court Reporter Kellie Humiston) (pvh) (Entered: 03/31/2021)
04/14/2021	18	<b>SCHEDULING ORDER</b> as to Darby Marshall Howard (USM #34360–509): At the request of defense counsel (by e–mail dated 4/14/2021) and with the consent of the Government and Pretrial Services, SETTING a Status Hearing regarding release for <b>Thursday, 4/15/2021, at 01:30 PM</b> in Portland by videoconference before the duty magistrate judge. Ordered on 4/14/2021 by Magistrate Judge Stacie F. Beckerman. (gw) (Entered: 04/14/2021)
04/15/2021	<u>19</u>	<b>Order Modifying Conditions of Release</b> as to Defendant Darby Marshall Howard. Signed on 4/15/2021 by Magistrate Judge Stacie F. Beckerman. (gw) (Entered: 04/15/2021)

04/15/2021	20		<b>Minutes of Proceedings:</b> Status Conference held before Magistrate Judge Stacie F. Beckerman as to Darby Marshall Howard (USM #34360–509) on 4/15/2021. Defendant waives his right to appear in person and consents to appear by telephone. Defendant to be released from the Northwest Regional Reentry Center to the Western District of Kentucky and will be placed on pretrial supervision in that district. Counsel Present for the Government: Gregory R. Nyhus (by telephone). Counsel Present for Defendant: C. Renee Manes (by video). (Court Reporter Ryan White) (gw) (Entered: 04/15/2021)
04/28/2021	24		<b>Minutes of Proceedings:</b> Pretrial Release Violation Hearing held on 4/28/2021 before Magistrate Judge Youlee Yim You as to Darby Marshall Howard (USM #34360–509). Defendant consents to appear by video for today's proceeding from USM Lock-Up. Defendant does not contest the allegation. The Court finds Defendant violated the conditions of his pretrial release supervision. ORDER revoking pretrial release. Defendant detained at this time; order of detention filed separately. ORDER – SETTING a Status Conference for 4/30/2021 at 1:30PM in Portland by videoconference before Magistrate Judge Youlee Yim You. Defendant's appearance regarding the 4/30/2021 status conference is waived. Counsel Present for Plaintiff: Gregory Nyhus. Counsel Present for Defendant: C. Renee Manes. (Court Reporter Ryan White) (pvh) (Entered: 04/28/2021)
04/28/2021	<u>25</u>		Revocation of Release and Detention Order as to Defendant Darby Marshall Howard. Signed on 4/28/2021 by Magistrate Judge Youlee Yim You. (pvh) (Entered: 04/28/2021)
04/30/2021	26		<b>Minutes of Proceedings:</b> Status Conference held on 4/30/2021 before Magistrate Judge Youlee Yim You as to Darby Marshall Howard (USM #34360–509). Defendant's appearance is waived. Defendant has been indicted in Multnomah County Circuit Court and is scheduled to be arraigned on May 11, 2021. However, the District Attorney will be seeking a writ to expedite defendant's arraignment to an earlier date. The parties will advise the court and pretrial services when defendant's arraignment is scheduled so that plans can be made for him to return to Kentucky and a release order can be prepared. Counsel Present for Plaintiff: Gregory Nyhus. Counsel Present for Defendant: C. Renee Manes. (Court Reporter Dennis Apodaca) (pvh) (Entered: 04/30/2021)
05/04/2021	<u>27</u>		Motion to Continue / Reset <i>Trial Date</i> by Defendant Darby Marshall Howard. (Manes, C.) (Entered: 05/04/2021)
05/04/2021	<u>28</u>		Declaration of Counsel, C. Renee Manes regarding Motion to Continue / Reset <i>Trial Date</i> <u>27</u> filed by Defendant Darby Marshall Howard (Manes, C.) (Entered: 05/04/2021)
05/05/2021	29		<b>ORDER:</b> Granting <u>27</u> Motion to Continue / Reset Trial Date as to Darby Marshall Howard (USM #34360–509). The 3–day Jury Trial set for 5/18/2021 is RESET to 7/20/2021 at 09:00AM in Portland Courtroom 15A before Judge Marco A. Hernandez. Counsel shall refer to the Trial Management Order (to follow) for pretrial submission timelines. Pursuant to 18 U.S.C. §3161(h)(7)(A) the Court finds the ends of justice outweigh the best interests of the public and the defendant in a speedy trial because the failure to grant the requested continuance is likely to result in a miscarriage of justice (§3161(h)(7)(B)(i)) and likely would deny defendant's counsel the reasonable time necessary for

		effective preparation, taking into account the exercise of due diligence (§3161(h)(7)(B)(iv)). Thus, excludable delay is granted until 7/20/2021. Ordered by Judge Marco A. Hernandez. (jp) (Entered: 05/05/2021)
05/10/2021	<u>30</u>	<b>Order Setting Conditions of Release</b> as to Defendant Darby Marshall Howard ( <i>Defendant to remain in a custody location until the Notice of Compliance with Pre–Release Conditions and Order of Release is filed</i> ). Signed on 05/10/2021 by Magistrate Judge Youlee Yim You. (nori). (Entered: 05/10/2021)
05/14/2021	31	Notice by Pretrial of Compliance with Pre–Release Conditions by Darby Marshall Howard as set forth in <u>30</u> Order Setting Conditions of Release,. (nori). (Entered: 05/14/2021)
06/04/2021	<u>32</u>	Arrest Warrant Returned Executed on 4/27/2021 as to Darby Marshall Howard. (kgc) (Entered: 06/07/2021)
07/06/2021	<u>33</u>	Motion for Discovery <i>and</i> , Motion to Continue / Reset <i>Trial Date</i> by Defendant Darby Marshall Howard. (Manes, C.) (Entered: 07/06/2021)
07/14/2021	34	<b>Scheduling Order</b> as to Darby Marshall Howard (Out of Custody). A telephone conference regarding Defendant's Motion for Discovery <i>and</i> Motion to Continue / Reset <i>Trial Date</i> <u>33</u> is set for 7/16/2021 at 11:00AM before Judge Marco A. Hernandez. Ordered by Judge Marco A. Hernandez. (jp) (Entered: 07/14/2021)
07/16/2021	35	<b>Minutes of Proceedings:</b> Telephone conference held regarding Defendant's Motion for Discovery and Motion to Continue / Reset Trial Date <u>33</u> as to Darby Marshall Howard (Out of Custody – by phone). The Court GRANTED Defendant's motion. Status of discovery production discussed. The 3–day Jury Trial set for 7/20/2021 is RESET to 9/21/2021 at 09:00AM in Portland Courtroom 15A before Judge Marco A. Hernandez. Counsel shall refer to the Trial Management Order (to follow) for pretrial submission timelines. Pursuant to 18 U.S.C. §3161(h)(7)(A) the Court finds the ends of justice outweigh the best interests of the public and the defendant in a speedy trial because the failure to grant the requested continuance is likely to result in a miscarriage of justice (§3161(h)(7)(B)(i)) and likely would deny defendant's counsel the reasonable time necessary for effective preparation, taking into account the exercise of due diligence (§3161(h)(7)(B)(iv)). Thus, excludable delay is granted until 9/21/2021. Counsel Present for Plaintiff: Gregory R. Nyhus. Counsel Present for Defendant: C. Renee Manes. (jp) (Entered: 07/19/2021)
09/07/2021	<u>36</u>	Unopposed Motion to Continue / Reset <i>Trial Date</i> by Defendant Darby Marshall Howard. (Manes, C.) (Entered: 09/07/2021)
09/07/2021	<u>37</u>	Declaration of C. Renee Manes regarding Unopposed Motion to Continue / Reset <i>Trial Date</i> <u>36</u> filed by Defendant Darby Marshall Howard (Manes, C.) (Entered: 09/07/2021)
09/08/2021	38	<b>ORDER:</b> Granting <u>36</u> Motion to Continue / Reset Trial Date as to Darby Marshall Howard (Out of Custody). The 3–day Jury Trial set for 9/21/2021 is RESET to 11/23/2021 at 09:00AM in Portland Courtroom 15A before Judge Marco A. Hernandez. Counsel shall refer to the Trial Management Order (to follow) for pretrial submission timelines. Pursuant to 18 U.S.C. §3161(h)(7)(A) the Court finds the ends of justice outweigh the best interests of the public and the defendant in a speedy trial because the failure to grant the requested



		continuance is likely to result in a miscarriage of justice (§3161(h)(7)(B)(i)) and likely would deny defendant's counsel the reasonable time necessary for effective preparation, taking into account the exercise of due diligence (§3161(h)(7)(B)(iv)). Thus, excludable delay is granted until 11/23/2021. Ordered by Judge Marco A. Hernandez. (jp) (Entered: 09/08/2021)
11/09/2021	<u>39</u>	Unopposed Motion to Continue / Reset <i>Trial Date</i> by Defendant Darby Marshall Howard. (Manes, C.) (Entered: 11/09/2021)
11/09/2021	<u>40</u>	Declaration of C. Renee Manes regarding Unopposed Motion to Continue / Reset <i>Trial Date</i> <u>39</u> filed by Defendant Darby Marshall Howard (Manes, C.) (Entered: 11/09/2021)
11/12/2021	41	<b>ORDER:</b> Granting <u>39</u> Motion to Continue / Reset Trial Date as to Darby Marshall Howard (Out of Custody). The 3–day Jury Trial set for 11/23/2021 is RESET to 1/25/2022 at 09:00AM in Portland Courtroom 15A before Judge Marco A. Hernandez. <b>No further continuances shall be granted without a Status Conference with the Court.</b> Counsel shall refer to the Trial Management Order (to follow) for pretrial submission timelines. Pursuant to 18 U.S.C. §3161(h)(7)(A) the Court finds the ends of justice outweigh the best interests of the public and the defendant in a speedy trial because the failure to grant the requested continuance is likely to result in a miscarriage of justice (§3161(h)(7)(B)(i)) and likely would deny defendant's counsel the reasonable time necessary for effective preparation, taking into account the exercise of due diligence (§3161(h)(7)(B)(iv)). Thus, excludable delay is granted until 1/25/2022. Ordered by Judge Marco A. Hernandez. (jp) Modified on 12/22/2021 (dsg). (Entered: 11/12/2021)
01/19/2022	<u>42</u>	Waiver of Speedy Trial by Darby Marshall Howard (Manes, C.) (Entered: 01/19/2022)
01/20/2022	43	<b>Scheduling Order</b> as to Darby Marshall Howard (Out of Custody). At the request of defense counsel, a Change of Plea Hearing and Sentencing is set for 3/24/2022 at 02:00PM in Portland Courtroom 15A before Judge Marco A. Hernandez. The 1/25/2022 Trial Date is STRICKEN. Pursuant to Defendant's Waiver of Speedy Trial <u>42</u> , excludable delay is granted until 3/24/2022. Ordered by Judge Marco A. Hernandez. (jp) (Entered: 01/20/2022)
03/01/2022	44	<b>Scheduling Order</b> as to Darby Marshall Howard (Out of Custody). Due to a conflict in the Court's schedule, the Change of Plea and Sentencing hearing set for 3/24/2022 at 2:00PM is RESET to 3/16/2022 at 11:00AM in Portland by video conference before Judge Marco A. Hernandez. Ordered by Judge Marco A. Hernandez. (jp) (Entered: 03/01/2022)
03/02/2022	<u>45</u>	Waiver of Personal Appearance and Consent to Video or Telephonic Conference by Darby Marshall Howard (Manes, C.) (Entered: 03/02/2022)
03/08/2022	<u>47</u>	Sentencing Memorandum filed by USA as to Darby Marshall Howard (Nyhus, Gregory) (Entered: 03/08/2022)
03/09/2022	<u>48</u>	Sentencing Memorandum by Darby Marshall Howard (Manes, C.) (Entered: 03/09/2022)
03/16/2022	51	<b>Minutes of Proceedings:</b> Defendant waives right to appear in person and consents to appear out of custody by video. As stated on the record, the Court

		<p>expressly finds for specific reasons that this hearing cannot be further delayed without serious harm to the interests of justice and the Defendant consented to the video teleconferencing after consultation with counsel.</p> <p>Defendant sworn and examined. Defendant advised of rights. Plea Petition and Plea Agreement signed and accepted by the Court. Government summarized charges and terms of plea agreement. The Court finds Defendant capable and competent to enter plea. Guilty plea entered as to Count 2 of the Indictment. The Court finds guilty plea to be knowing and voluntary and accepts defendant's plea. Defendant sentenced to TIME SERVED – see formal Judgment. Defendant to be advised of right to appeal. Count 1 is dismissed on the government's motion. Counsel Present for Plaintiff: Gregory R. Nyhus. Counsel Present for Defendant: C. Renee Manes. (USPO Present: Ryan Adamson and Stephen Hanington) (Court Reporter Ryan White) (jp) (Entered: 03/16/2022)</p>
03/16/2022	<u>52</u>	Plea Petition and Order Entering Plea as to Defendant Darby Marshall Howard. Signed on 3/16/2022 by Judge Marco A. Hernandez. (jp) (Entered: 03/22/2022)
03/16/2022	<u>53</u>	Plea Agreement as to Darby Marshall Howard (jp) (Entered: 03/22/2022)
03/22/2022	<u>54</u>	<b>Judgment &amp; Commitment</b> as to Darby Marshall Howard (1) (USM #34360–509). SENTENCING DATE: 3/16/2022; Count(s) 1: DISMISSED; Count(s) 2: IMPRISONMENT: TIME SERVED; SUPERVISED RELEASE: Three (3) years; SPECIAL ASSESSMENT: \$100.00. Signed on 3/22/2022 by Judge Marco A. Hernandez. ( <i>Three certified copies forwarded to U.S. Marshal on 3/22/2022.</i> ) (ecp) Modified on 3/23/2022 to correct docket text. (ecp). (Entered: 03/22/2022)
03/22/2022	<u>55</u>	Statement of Reasons as to Darby Marshall Howard ( <b>NOTE: This document is filed under seal and access is restricted to counsel of record</b> ) (USM #34360–509) Signed on 3/22/2022 by Judge Marco A. Hernandez. (ecp) (Entered: 03/22/2022)
06/06/2022	<u>56</u>	Supervised Release Jurisdiction Transferred Out to Western District of Kentucky as to Darby Marshall Howard (ecp) (Entered: 06/06/2022)



FILED 16 MAR 21 17:02 USDC-ORP

**UNITED STATES DISTRICT COURT**

**DISTRICT OF OREGON**

**PORTLAND DIVISION**

**UNITED STATES OF AMERICA**

**3:21-CR- 87-HZ**

**INDICTMENT**

**v.**

**DARBY MARSHALL HOWARD,**

**18 U.S.C. § 1361**

**Defendant.**

**THE GRAND JURY CHARGES:**

**COUNT 1**

**(Destruction of Government Property)  
(18 U.S.C. § 1361)**

On or about March 11, 2021, in the District of Oregon, defendant DARBY MARSHALL HOWARD willfully damaged and destroyed, and attempted to damage and destroy, property owned by the United States, that is, the northern most plate glass office window on the west side of the Mark O. Hatfield United States Courthouse, which value exceeds \$1000;

In violation of Title 18, United States Code, Section 1361.

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**Indictment**

**Page 1**

COUNT 1 *2 57B*  
(Destruction of Government Property)  
(18 U.S.C. § 1361)

On or about March 11, 2021, in the District of Oregon, defendant DARBY MARSHALL HOWARD willfully damaged and destroyed, and attempted to damage and destroy, property owned by the United States, that is, the second most northern plate glass office window on the west side of the Mark O. Hatfield United States Courthouse, which value exceeds \$1000.

In violation of Title 18, United States Code, Section 1361.

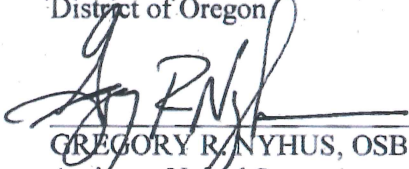
DATED: March 16, 2021.

A TRUE BILL.

OFFICIATING FOREPERSON

Presented by:

SCOTT ERIK ASPHAUG, OSB #833674  
Acting United States Attorney  
District of Oregon

  
GREGORY R. NYHUS, OSB #913841  
Assistant United States Attorney

**UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON**

**UNITED STATES OF AMERICA**

Plaintiff,

v.

**DARBY MARSHALL HOWARD**

Defendant.

**JUDGMENT IN A CRIMINAL CASE****Case No.: 3:21-CR-00087-HZ-1****USM Number: 34360-509**C. Renee Manes,  
Defendant's AttorneyGregory R. Nyhus,  
Assistant U.S. Attorney**THE DEFENDANT:**☒pleaded guilty to count(s) 2 of the Indictment.

The defendant is adjudicated guilty of the following offense(s):

<u>Title, Section &amp; Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number</u>
18:1361 - Destruction of Government Property	3/11/2021	2

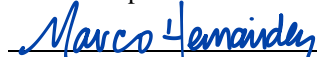
The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐The defendant has been found not guilty on count(s) and is discharged as to such count(s).☒Count(s) 1 is dismissed on the motion of the United States.☒The defendant shall pay a special assessment in the amount of \$100.00 for Count 2 payable to the Clerk of the U.S. District Court. (See also the Criminal Monetary Penalties Sheet.)

**IT IS ORDERED** that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant shall notify the court and United States Attorney of any material change in the defendant's economic circumstances.

March 16, 2022

Date of Imposition of Sentence



Signature of Judicial Officer

Marco A. Hernandez, U.S. District Judge

Name and Title of Judicial Officer

March 22, 2022

Date

AO 245B

Judgment in a Criminal Case - DISTRICT OF OREGON CUSTOMIZED (Rev. 10/2019)

Sheet 2 - Imprisonment

DEFENDANT: DARBY MARSHALL HOWARD

Judgment-Page 2 of 7

CASE NUMBER: 3:21-CR-00087-HZ-1

**IMPRISONMENT**

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a term of **TIME SERVED**.

☐ The court makes the following recommendations to the Bureau of Prisons:

☐ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the custody of the United States Marshal for this district:

☐ at \_\_\_\_\_ on \_\_\_\_\_.

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before \_\_\_\_\_ on \_\_\_\_\_.

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

The Bureau of Prisons will determine the amount of prior custody that may be credited towards the service of sentence as authorized by Title 18 USC §3585(b) and the policies of the Bureau of Prisons.

**RETURN**

I have executed this judgment as follows:

\_\_\_\_\_  
 \_\_\_\_\_

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_

at \_\_\_\_\_, with a certified copy of this judgment.

\_\_\_\_\_  
 UNITED STATES MARSHAL

By: \_\_\_\_\_  
 DEPUTY UNITED STATES MARSHAL

**SUPERVISED RELEASE**

Upon release from imprisonment, the defendant shall be on supervised release for a term of **3 years**.

**MANDATORY CONDITIONS**

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.
  - ☐ The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(check if applicable)*
4. ☐ You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
5. ☒ You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
6. ☐ You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
7. ☐ You must participate in an approved program for domestic violence. *(check if applicable)*

You must comply with the standard conditions that have been adopted by this court as well as with any other conditions on the attached page.

## STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
13. You must follow the instructions of the probation officer related to the conditions of supervision.

### U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. For further information regarding these conditions, see *Overview of Probation and Supervised Release Conditions*, available at: [www.uscourts.gov](http://www.uscourts.gov).

Defendant's Signature \_\_\_\_\_

Date \_\_\_\_\_



### **SPECIAL CONDITIONS OF SUPERVISION**

1. You must submit your person, property, house, residence, vehicle, papers, or office, to a search conducted by a United States probation officer. Failure to submit to a search may be grounds for revocation of release. You must warn any other occupants that the premises may be subject to searches pursuant to this condition. The probation officer may conduct a search under this condition only when reasonable suspicion exists that you have violated a condition of supervision and that the areas to be searched contain evidence of this violation. Any search must be conducted at a reasonable time and in a reasonable manner.
2. You must participate in a mental health treatment program and follow the rules and regulations of that program. The probation officer, in consultation with the treatment provider, will supervise your participation in the program (provider, location, modality, duration, intensity, etc.).
3. You must participate in an educational services program and follow the rules and regulations of that program. Such programs may include high school equivalency preparation, English as a Second Language classes, and other classes designed to improve your proficiency in skills such as reading, writing, mathematics, or computer use.

AO 245B

Judgment in a Criminal Case - DISTRICT OF OREGON CUSTOMIZED (Rev. 10/2019)  
Sheet 5 - Criminal Monetary PenaltiesDEFENDANT: DARBY MARSHALL HOWARD  
CASE NUMBER: 3:21-CR-00087-HZ-1

Judgment-Page 6 of 7

**CRIMINAL MONETARY PENALTIES**

The defendant shall pay the following total criminal monetary penalties in accordance with the Schedule of Payments set forth in this judgment.

	<u>Assessment</u> (as noted on Sheet 1)	<u>Restitution</u>	<u>Fine</u>	<u>AVAA</u> <u>Assessment</u> <sup>1</sup>	<u>JVTA</u> <u>Assessment</u> <sup>2</sup>	<u>TOTAL</u>
<b><u>TOTALS</u></b>	\$100.00	\$0.00				\$ 100.00

☐ The determination of restitution is deferred until \_\_\_\_\_. An *Amended Judgment in a Criminal Case* will be entered after such determination.

☐ The defendant shall make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all non-federal victims must be paid in full prior to the United States receiving payment.

☐ If applicable, restitution amount ordered pursuant to plea agreement: \$\_\_\_\_\_.

☐ The defendant must pay interest on any fine or restitution of more than \$2,500, unless the fine or restitution is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on the Schedule of Payments may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that

☐ The interest is waived for the ☐ fine and/or ☐ restitution.

☐ The interest requirement for the ☐ fine and/or ☐ restitution is modified as follows:

Any payment shall be divided proportionately among the payees named unless otherwise specified.

**SCHEDULE OF PAYMENTS**

Having assessed the defendant's ability to pay, payment<sup>1</sup> of the total criminal monetary penalties shall be as follows:

- A. ☐ Lump sum payment of \$\_\_\_\_\_ due immediately, balance due  
☐ not later than \_\_\_\_\_, or  
☐ in accordance with ☐ C, ☐ D, or ☐ E below; or
- B. ☒ Payment to begin immediately (may be combined with ☐ C, ☒ D, or ☐ E below); or
- C. ☐ If there is any unpaid balance at the time of defendant's release from custody, it shall be paid in monthly installments of not less than \$\_\_\_\_\_, or not less than 10% of the defendant's monthly gross earnings, whichever is greater, until paid in full to commence immediately upon release from imprisonment.
- D. ☒ Any balance at the imposition of this sentence shall be paid in monthly installments of not less than \$25.00, or not less than 10% of the defendant's monthly gross earnings, whichever is greater, until paid in full to commence beginning April 1, 2022.
- E. ☐ Special instructions regarding the payment of criminal monetary penalties:

Unless the Court has expressly ordered otherwise in the special instructions above, if this judgment imposes a period of imprisonment, payment of criminal monetary penalties, including restitution, shall be due during the period of imprisonment as follows: (1) 50% of wages earned if the defendant is participating in a prison industries program; (2) \$25 per quarter if the defendant is not working in a prison industries program. . If the defendant received substantial resources from any source, including inheritance, settlement, or other judgment, during a period of incarceration, the defendant shall be required to apply the value of such resources to any restitution or fine still owed, pursuant to 18 USC § 3664(n).

Nothing ordered herein shall affect the government's ability to collect up to the total amount of criminal monetary penalties imposed, pursuant to any existing collection authority.

All criminal monetary penalties, including restitution, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the Clerk of Court at the address below, unless otherwise directed by the Court, the Probation Officer, or the United States Attorney.

**Clerk of Court  
U.S. District Court - Oregon  
1000 S.W. 3rd Ave., Ste. 740  
Portland, OR 97204**

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ **Joint and Several**

**Case Number**

**Defendant and Co-Defendant Names**  
(including Defendant number)

**Total Amount**

**Joint and Several Amount**

**Corresponding Payee, if  
appropriate**

☐ The defendant shall pay the cost of prosecution.

☐ The defendant shall pay the following court costs:

☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

<sup>1</sup> Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) AVAA assessment, (5) fine principal, (6) fine interest, (7) community restitution, (8) JVTa assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.